IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

TUESDAY, THE 30TH OCTOBER 2007 / 8TH KARTHIKA 1929

Bail Appl..No. 6360 of 2007()

CRIME NO.667/07 OF KOCHI CUSBA POLICE STATION.
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PETITIONRS/ ACCUSED:
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1. **K.J.PAUL, AGED 33 YEARS,**
   S/O.JOSEPH, KANNANKERIL HOUSE, AZHIKKAKAM,
   KUMBALANGHI, KOCHI-7.

2. **PRINCE @ PINCHAN, AGED 28 YEARS,**
   S/O.ERANIMOOS, ALUNKAL HOUSE,
   KUMBALANGHI, KOCHI-7.

3. **LINU, AGED 22 YEARS, S/O.M.R.THOMAS,**
   MANIKKIL HOUSE, PERUMPADAPPU, KOCHI-6.

4. **JINEESH, AGED 25 YEARS,**
   S/O.SASI, PADANNAKARRY HOUSE,
   KUMBALANGHI, KOCHI-7.

5. **SEBI, AGED 27 YEARS, S/O.JOSY,**
   PULIKKIL HOUSE, KUMBALANGHI, KOCH-7.

BY ADV. SRI.ASHIK K.MOHAMMED ALI

RESPONDENTS: COMPLAINANT:
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1. **STATE OF KERALA, REPRESENTED BY THE**
   CIRCLE INSPECTOR OF POLICE, PALLURUTHY,
   THROUGH THE PUBLIC PROSECUTOR, HIGH COURT OF
   KERALA, ERNAKULAM.

2. **SUB INSPECTOR OF POLICE, KOCHI**
   CUSBA POLICE STATION, PALLURUTHY.

BY PUBLIC PROSECUTOR SRI.S.U.NAZAR

THIS BAIL APPLICATION HAVING BEEN FINALLY HEARD ON 30/10/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J

B.A.No.6360 of 2007

Dated this the 30th day of October, 2007

ORDER

Application for anticipatory bail. Petitioners are accused 1 to 5. They face allegations for offences punishable, inter alia, under Section 324 and 308 r/w 149 I.P.C. The crux of the allegations is that the petitioners along with another were members of an unlawful assembly of persons who allegedly mounted an attack on the victims-2 in number with dangerous weapons. Incised injuries were suffered by the victims. Investigation is in progress. The petitioners apprehend imminent arrest. Originally there were 5 petitioners, of which accused 4 and 5 were subsequently arrested and they have already been enlarged on bail. It is submitted that the said petitioners were released on bail by the learned Magistrate under Section 437 Cr.P.C. The petitioners pray that they may be granted anticipatory bail.

2. The learned Public Prosecutor opposes the application. There are no circumstances justifying or warranting the invocation of the extraordinary equitable discretion under Section 438 Cr.P.C, submits the learned Public Prosecutor .

3. Having considered all the relevant inputs, I find merit in the opposition by the learned Public Prosecutor . The petitioners also

must appear before the Investigating Officer or the learned Magistrate and seek regular bail, I am satisfied. I find no features in this case that would justify or warrant the invocation of the extraordinary equitable discretion under Section 438 Cr.P.C.

4. This application is, in these circumstances, dismissed, but I may hasten to observe that if the petitioners surrender before the Investigating Officer or the learned Magistrate and apply for bail after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits and expeditiously.

(R.BASANT, JUDGE)

rtr/-